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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,987	09/29/2000	Joshua I. Pine	00CXT0422i	2945
25700	7590	07/29/2005	EXAMINER	
FARJAMI & FARJAMI LLP 26522 LA ALAMEDA AVENUE, SUITE 360 MISSION VIEJO, CA 92691			AGGARWAL, YOGESH K	
			ART UNIT	PAPER NUMBER
			2615	

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/672,987	<b>Applicant(s)</b> PINE, JOSHUA I.	
	<b>Examiner</b> Yogesh K. Aggarwal	<b>Art Unit</b> 2615	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 5,6,24.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See continuation sheet.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_.

  
**DAVID L. OMETZ**  
**PRIMARY EXAMINER**

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**Examiner's response:**

Applicant argues with regards to claims 5 and 24 that Palcic does not come close to disclosing, teaching or suggesting that the image processor detects whether there is a low incident light condition, and if so, captures the image using the low-resolution mode of the circuit. In contrast, Palcic simply discloses that the lighting condition is adjusted in each mode, but falls completely short of teaching or suggesting that the lighting condition is used to select between the low resolution and high-resolution modes. The Examiner respectfully disagrees.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Furthermore, Applicant is reminded that the test for obviousness is not whether the features of a secondary reference (e.g. Palcic), may be bodily incorporated into the structure of the primary reference (e.g. Wilder), nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In this case, Wilder was used to teach the recited claim limitation "an image processor that operates the circuit and selects between the full-resolution and low-resolution modes of the circuit to capture an image" (col. 5 line 66- col. 6 line 64). Palcic has been explicitly used for teaching "where the image processor detects whether there is a low incident light condition, and if so, captures the image using the low-resolution mode of the circuit". Palcic teaches in col. 4 lines 6-11 and col. 9 lines 8-14 an image sensing means for detecting tissue fluorescence (low or

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high fluorescent light intensities) and having a light sensitivity that can be increased to acquire low resolution images at low light intensities which clearly reads on the claim limitation “where the image processor detects whether there is a low incident light condition, and if so, captures the image using the low-resolution mode of the circuit”.

Furthermore, Pelcic provides explicit motivation for having a low resolution image taken at low light intensities [i.e. it would be obvious to one skilled in the art to have been motivated to have] for the advantage of having the light sensitivity increased by binning the pixels that decreases the spatial resolution and thus providing more light per pixel (col. 9 lines 8-23). For these reasons, the applicant’s arguments are traversed. The same arguments apply for claim 24.

Applicant argues with regards to claim 24 that there is no teaching or suggestion by either reference, whatsoever, to combine Anderson and Kuroiwa with Wilder, as described by the Examiner. The Examiner respectfully disagrees. As clearly mentioned in the previous office action, Anderson explicitly teaches a system and method for managing utilization of a battery and a voltage sensor 76 (figure 3) for monitoring the power source’s 74 voltage (col. 5 lines 64-66). Upon detecting that the power source voltage has fallen below a predetermined threshold, the voltage sensor 76 generates a signal to the PMH 70. Upon receiving the signal from the voltage sensor, PMH 70 immediately commands the flash unit 66 to no longer consume any power (col. 5 line 67-col. 6 line 31). The motivation of doing so is explicitly mentioned in the Anderson i.e. in order to maximize the power supply’s usable life by compensating the effects of power supply degradation thus optimizing camera performance (col. 2 lines 42-47).

Kuroiwa has been expressly used for teaching the claimed limitation “and if so, captures the image using the low-resolution mode of the circuit” which teaches that the reduction in

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resolution is achieved as a result of sub-sampling in order to make it easy to reduce the power consumption (Paragraph 188). The motivation of doing so is explicitly mentioned in the Kuroiwa i.e. by reducing the resolution, it will make advantageous or easier to reduce the power consumption (Paragraph 188).

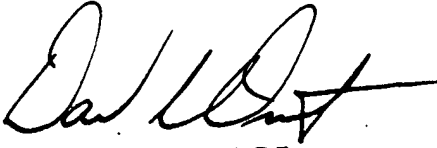
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh K. Aggarwal whose telephone number is (571) 272-7360. The examiner can normally be reached on M-F 9:00AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571)-272-7593. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YKA  
July 26, 2005

  
DAVID L. OMETZ  
PRIMARY EXAMINER